

PHILLIP A. TALBERT
United States Attorney
PETER K. THOMPSON, HI 5890
Acting Regional Chief Counsel, Region IX
Social Security Administration
ELLINOR R. CODER, CA 258258
Special Assistant United States Attorney
160 Spear Street, Suite 800
San Francisco, California 94105
Telephone: (510) 970-4814
E-Mail: Ellinor.Coder@ssa.gov

Attorneys for Defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DEREK WADE CARLON,) Case No.: 1:21-cv-01484-EPG
Plaintiff,)
vs.) ORDER RE: STIPULATION FOR AN
KILOLO KIJAKAZI,) EXTENSION OF TIME
Acting Commissioner of Social Security,) (ECF No. 13).
Defendant.)
)

IT IS HEREBY STIPULATED, by and between the parties, through their respective counsel of record, that the time for Defendant to respond to Plaintiff's opening brief be extended forty-five (45) days from August 15, 2022 up to and including September 29, 2022. This is the parties' first request for an extension; this case was previously stayed.

There is good cause for this extension. The Court ordered the Commissioner to file the record not later than June 30, 2022, which was 90 days after the stay lifted (Doc. 8). This case was part of a pre-answer project to review over 200 of the Commissioner's stayed cases for policy compliance, so that the Commissioner could identify cases for early settlement. This case underwent such a review on April 11, 2022 and again after an updated administrative record issued on May 25, 2022. Intending to defend the case, previously assigned counsel arranged for

1 the U.S. Attorney's Office to file the record on May 31, 2022 (Doc. 9). Plaintiff timely filed his
2 brief on June 30, 2022 (Doc. 10). The undersigned thanks Plaintiff's counsel for courteously
3 alerting her to the overdue status of the Commissioner's brief.

4 On July 6, 2022, the undersigned counsel for the Commissioner was re-assigned this
5 matter for briefing (Doc. 12). In the intervening time period, the undersigned was re-assigned a
6 share of all remaining cases in the pre-answer project that were awaiting Plaintiff's brief, a share of
7 cases from that project for which claimants had already filed their opening briefs, a share of
8 cases assigned to counsel who have transferred to other components of the Office of General
9 Counsel as part of a national reorganization, and a share of cases assigned to counsel who have
10 departed the agency or are on long-term leave. These assignments and re-assignments were in
11 addition to the usual assignments when complaints are filed. Due to an administrative error
12 during the assignment of this case, the undersigned believed the Commissioner's deadline was
13 September 13, 2022 and did not double check that deadline against the docket. Counsel
14 apologizes to Plaintiff and the Court for this oversight.

15 A shorter extension would not suffice. The undersigned's office is not fully staffed
16 because planned hiring and personnel transfers into the new office handling all Ninth Circuit
17 litigation have not taken place to backfill recent departures. This staffing issue occurs in the
18 midst of an increased volume of briefs in this District, due to the large volume of administrative
19 records that the Commissioner filed from April to June 2022. All of the undersigned's cases are
20 typically in this District, and therefore subject to case volume trends. Further, the undersigned
21 was issued military orders to travel and work in Washington, D.C. during the week of September
22 12, 2022. The undersigned has been in regular communication with her supervisor regarding the
23 District case volume trends and the impact of military orders in September, but no cases are
24 expected to be re-assigned.

25 Therefore, in order to give this case due attention and considering the undersigned's other
26 briefing deadlines in August and September, the Commissioner respectfully requests an
27 extension from August 15, 2022 to September 29, 2022. The parties further stipulate that the
28 Court's Scheduling Order shall be modified accordingly.

1 Respectfully submitted,

2 Dated: August 19, 2022

3 /s/ *Francesco P. Benavides**
4 FRANCESCO P. BENAVIDES
5 Attorney for Plaintiff
6 (*signature authorized via e-mail Aug. 19, 2022)

7 Dated: August 19, 2022

8 PHILLIP A. TALBERT
9 United States Attorney
10 PETER K. THOMPSON
11 Acting Regional Chief Counsel, Region IX
12 Social Security Administration

13 By: /s/ *Ellinor R. Coder*
14 ELLINOR R. CODER
15 Special Assistant U.S. Attorney
16 Attorneys for Defendant

ORDER

Based on the above stipulation (ECF No. 13), IT IS ORDERED that Defendant shall file Defendant's responsive brief no later than September 29, 2022. All other deadlines in the Court's scheduling order are extended accordingly.

IT IS SO ORDERED.

Dated: August 22, 2022

/S/ Eric P. Grotjahn

UNITED STATES MAGISTRATE JUDGE